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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,756	10/10/2001	Yelena Loginova	967.061US1	2366

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EXAMINER

HUI, SAN MING R

ART UNIT PAPER NUMBER

1617

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/975,756

Applicant(s)

LOGINOVA ET AL.

Examiner

San-ming Hui

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6,7,9-12 and 14-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7,9-12 and 14-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 17, 2006 has been entered.

Applicant's amendments filed July 17, 2006 have been entered.

The outstanding rejections under 35 USC 112, first and second paragraph are withdrawn in view of the amendments filed July 17, 2006.

Claims 1-3, 6-7, 9-12, and 14-26 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, 6-7, 9-12, and 14-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,653,969 ('969) in view of US 5,804,173 ('173), '173 is of record.

'969 teaches a low residue hair care product, such as gel, containing copolymer of methyl methacrylate and ethyl acrylate (See col. 7, lines 44 and col.10, line 39). Hydrocarbon such as isoparaffin is taught as useful as solvent (See col. 12, lines 9-14 for example). '969 also teaches that Ceteareth-20, dimethicone, isododecane can be used (See col. 25-28, Examples 3-10).

'969 does not expressly teach the surfactant as ethoxylated alcohol. '969 does not expressly teach the additional agent such as sunscreen is added into the low-residue hair product. '969 does not expressly teach the herein claimed ratio between the monomer unit of acrylate copolymer as 7.5-8.5 : 1.8-2.3.

'173 teaches a easy-off hair product that can incorporate the surfactant can be ethoxylated alcohols (See col. 25, lines 11-12). '173 teaches a mixture useful for cosmetic composition for hair and skin care comprising a 25% of copolymer and about 75% of isoparaffin; or copolymer and around 60% of cyclomethicone (See for example, col. 30, Example 11). '173 also teaches the herein claimed surfactants such as Steareth-20 and Ceteareth-20 (See col.25, lines 15-26). '173 also teaches the copolymer formulation may be used as a component for gels, lotions, and sunscreen (See col. 15, lines 48-67, col. 19, lines48 – col. 20, line27). '173 also teaches such composition having an improved "wash-out" characteristics.

It would have been obvious to one of ordinary skill in the art at the time of invention to employ the ethoxylated alcohol surfactant and sunscreen agent taught in '173 into the hair composition of '969. It would have been obvious to one of ordinary skill in the art at the time of invention to employ the herein claimed ratio of monomers in the hair product of '969.

One of ordinary skill in the art would have been motivated to employ the ethoxylated alcohol surfactant and sunscreen agent taught in '173 into the hair composition of '969. It is clear that both of the easily rinse-off hair products of '969 and '173 are similar. Therefore, the surfactant and the sunscreen agents useful for hair composition of '173 should also be useful for hair composition of '969 since the employment of these agents would not affect the rinse-off properties of the hair product of '969. One of ordinary skill in the art would have been motivated to formulate and employ the herein claimed copolymer with the herein claimed weight ratio as 7.5-8.5 : 1.8-2.3 since the optimization of result effect parameters (dosage range, dosing regimens) is obvious as being within the skill of the artisan, absent evidence to the contrary.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 6-7, 9-12, and 14-26 have been considered but are moot in view of the new ground(s) of rejection.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to San-ming Hui whose telephone number is (571) 272-

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0626. The examiner can normally be reached on Mon 9:00 to 1:00, Tu - Fri from 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan, PhD., can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


San-ming Hui
Primary Examiner
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